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Attorneys for Specially-Appearing
 Defendants, BYRIDER FRANCHISING,
 INC. (erroneously sued and served as J.D.
 Byrider, Inc.), Grace Auto, Inc. dba JD
 Byrider (erroneously sued as JD Byrider of
 Chandler), and Grace Finance, Inc. dba
 CNAC (erroneously sued as CarNow
 Acceptance Company)

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

JESSICA HARTUNG, an individual,

Plaintiff,

vs.

J.D. BYRIDER, INC.; JD BYRIDER
 OF CHANDLER; CARNOW
 ACCEPTANCE COMPANY; JOHN
 ANDERSON; and T-MOBILE USA,
 INC. and DOES 1 through 10 inclusive,

Defendants.

CASE NO. C 08-01380 SC

**DECLARATION OF JEFFREY B.
 HIGGINS IN SUPPORT OF
 MOTION TO DISMISS FOR LACK
 OF PERSONAL JURISDICTION
 PURSUANT TO RULE 12(b)(2), OR
 IN THE ALTERNATIVE,
 TRANSFER VENUE OR COMPEL
 ARBITRATION AND STAY
 PROCEEDINGS**

[Filed Concurrently with Motion to
 Dismiss and Declaration of Robert
 Hirst]

Assigned to Hon. Samuel Conti

Date : July 25, 2008

Time; 10:00 a.m.

Courtroom: 1, 17th Floor

Action Filed: March 11, 2008
 Trial Date: None Set

I, JEFFREY B. HIGGINS, declare that the foregoing is true and correct:

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1 1. I am Vice President, General Counsel, and Secretary for BYRIDER
2 FRANCHISING, INC., erroneously sued and served as J.D. BYRIDER, INC. (hereinafter
3 "BYRIDER"), a defendant in the above-entitled action. I have been employed by
4 BYRIDER since 1991. As Vice President, General Counsel, and Secretary of BYRIDER,
5 I am authorized to act on its behalf. My authority in this case is limited to specially
6 appearing on behalf of BYRIDER on this motion and for no other purpose. I have
7 reviewed BYRIDER's business and financial records, which were generated and kept in
8 the normal course of business. I am familiar with BYRIDER's legal affairs and have
9 reviewed the pleadings and other documents related to this lawsuit. I am familiar with the
10 usual business practices and customs of BYRIDER and have personal knowledge of the
11 facts set forth herein.

12 2. I make this declaration in support of specially appearing defendants' Motion
13 to Dismiss for Lack of Personal Jurisdiction, or in the alternative, Motion to Transfer
14 Venue and/or Compel Arbitration and Stay Proceedings.

15 3. BYRIDER was served with summons and complaint in the above-entitled
16 action at its headquarters in Carmel, Indiana on April 7, 2008 by a process server.

17 4. BYRIDER owns and has the right to license the trade-marks and business
18 systems of a used-car and finance company known as J.D. BYRIDER and CNAC
19 CARNOW ACCEPTANCE COMPANY, respectively.

20 5. BYRIDER entered into a franchise agreement with defendants Grace Auto,
21 Inc. (dba J.D. BYRIDER) and Grace Finance, Inc. (dba CNAC) on or about April 21,
22 2001 wherein Grace Auto and Grace Finance agreed to operate a used-car dealership and
23 finance company in the State of Arizona. As part of said agreement, BYRIDER receives
24 certain fees, such as a monthly royalty and advertising fee.

25 6. BYRIDER has licensed J.D. BYRIDER/CNAC franchises throughout the
26 United States. Each franchise is independently owned and operated. BYRIDER has
27 never been a general or special agent, alter ego, joint venturer, partner, or employee of any
28 of its franchisees. BYRIDER provides a business model to its franchisees in the overall

1 operation and management of the franchise; however, BYRIDER provides no control on
2 the day-to-day operation of the franchises. BYRIDER has never hired, supervised, or
3 controlled a franchisee's employees, agents, or independent contractors. BYRIDER has
4 never dictated, supervised, or controlled the method or manner in which a franchisee
5 collects on debts owed to them. Pursuant to its franchise agreement, BYRIDER requires
6 franchisees to comply with all applicable local, state, and federal laws, rules, and
7 regulations.

8 7. At all times relevant to this action, BYRIDER has been an Indiana
9 corporation with its principal place of business at 12802 Hamilton Crossing Boulevard,
10 Carmel, Indiana, 46032.

11 8. BYRIDER has never maintained any businesses, headquarters, or offices in
12 California. BYRIDER is not and has never been incorporated in California. BYRIDER
13 has never had any subsidiaries incorporated or qualified, licensed, or registered to do
14 business in California. BYRIDER has never been owners, partners, or joint venturers, or
15 agents of any resident or entity doing business in California.

16 9. Per California state law, BYRIDER is registered with the California
17 Department of Corporations for the sole purpose of selling J.D. BYRIDER/CNAC
18 franchises in California.

19 10. To date, there is only one J.D. BYRIDER/CNAC franchise located in Visalia,
20 California. The Visalia-based franchisee was established in or about 2007. The Visalia
21 franchise, like all other J.D. BYRIDER/CNAC franchises, is independently owned and
22 operated. BYRIDER's franchise agreement with the Visalia-based franchisee did not give
23 rise to any of the allegations or claims made by plaintiff in the above-entitled action. The
24 Visalia franchisee is not a party to this lawsuit and plaintiff does not allege that any acts
25 by the Visalia franchisee caused or contributed to her injuries and/or damages.

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1 11. The employees, servants, agents, officers, and/or directors of BYRIDER have
2 always been domiciled in or residents of Indiana. BYRIDER has never had any
3 employees, servants, agents, officers, and/or directors residing or domiciled in California.

4 12. BYRIDER has never maintained any bank accounts in California.
5 BYRIDER has never owned, leased, rented, controlled, or maintained any real or personal
6 property or other tangible assets in the State of California. BYRIDER has never paid
7 taxes in California.

8 13. BYRIDER has never maintained or operated any branch offices or
9 comparable facilities in California. BYRIDER has never maintained any telephone
10 listings or mailing addresses in California.

11 14. Although BYRIDER occasionally advertises in a national trade magazine
12 entitled "Automotive News" that may have reached subscribers residing or domicile in
13 California, BYRIDER has never directed any of their advertising primarily toward
14 California residents.

15 15. BYRIDER operates a website entitled www.jdbyrider.com which describes
16 the background of the franchise and offers information about franchise opportunities,
17 employment opportunities, and dealer locations. Customers may apply for credit online;
18 however, the credit applications are forwarded to the closest franchise dealership.
19 Potential franchisees may only obtain information from the website; the website clearly
20 states that the webpage is not an offer of a franchise.

21 16. BYRIDER has never held a board of directors, board of officers,
22 shareholders, or other official meeting in California.

23 17. BYRIDER does not and has never engaged in any persistent course of
24 conduct in the State of California and does not consent to the exercise of jurisdiction over
25 it by the courts of the State of California.

26 18. BYRIDER has never been a party to any lawsuit filed in the State of
27 California, with the exception of the present action.

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20. John Anderson, a co-defendant in the above-entitled action, is not an employee, agent, servant, partner, joint venturer, or independent contractor of BYRIDER. BYRIDER never hired, retained, or exercised any supervisory control over John Anderson. BYRIDER never entered into any contract with John Anderson. BYRIDER had no contact or association with John Anderson. BYRIDER never had a business, financial, or other relationship with John Anderson. BYRIDER never purchased any debts or liabilities of John Anderson. BYRIDER never received any funds or monies from John Anderson or any person related to or in business with John Anderson. BYRIDER never paid John Anderson any type of fee or compensation for his services.

21. In my capacity as Vice President, General Counsel, and Secretary of
BYRIDER, I have reviewed the Retail Installment Contract and Security Agreement
entered into by plaintiff and Grace Auto on or about April 5, 2007. I have also reviewed
the mandatory arbitration provision contained in said Contract.

22. I am unaware of any basis for plaintiff's claim against BYRIDER. Nevertheless, BYRIDER does not object to participating in any arbitration proceeding related to the claims alleged against BYRIDER.

20 23. I declare under penalty of perjury under the laws of the United States of
21 America that the foregoing is true and correct.

22 Executed May 27, 2008, at Carmel, Indiana.

JEFFREY B. HIGGINS

PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.

On May 27, 2008, I served true copies of the following document(s) described as **DECLARATION OF JEFFREY B. HIGGINS IN SUPPORT OF MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION PURSUANT TO RULE 12(B)(2), OR IN THE ALTERNATIVE, TRANSFER VENUE OR COMPEL ARBITRATION AND STAY PROCEEDINGS** on the interested parties in this action as follows:

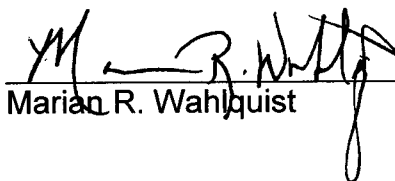
SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address mwahlquist@murchisonlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 27, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

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